

#3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 2873-000022/USA

Group Art Unit: Not yet assigned
Examiner: Not yet assigned
Inventors: John W. Wong et al.
Serial No.: 09/424,431

Filing Date: November 23, 1999

For: METHOD AND APPARATUS FOR
DELIVERING RADIATION THERAPY
DURING SUSPENDED VENTILATION



) RESPONSE TO
) NOTIFICATION
) OF MISSING
) REQUIREMENTS
) UNDER 35 U.S.C.
) 371

Box PCT
Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on March 13, 2000.

By

A handwritten signature in black ink, appearing to be "M. D. M. M. M.", written over a horizontal line.

Sir:

In response to the Notification of Missing Requirements under 35 U.S.C. 371 mailed January 24, 2000 (copy enclosed), Applicants enclose herewith a Declaration and Power of Attorney, Assignment with required cover sheet (in duplicate) and Verified Statement Claiming Small Entity Status for filing with regard to the above-identified patent application.

Also enclosed is a check in the amount of \$40.00 for payment of the assignment recordal fee (\$40.00). If Applicants have overlooked the payment of any other necessary fees, or if an overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit Account No. 08-0750 accordingly. A duplicate copy of this Response is enclosed for this purpose.

Applicants respectfully request entry of the Declaration and Power of Attorney as well as the Verified Statement Claiming Small Entity Status and recordal of the Assignment to complete the filing requirements for this application.

Respectfully submitted,



Thomas T. Moga
Registration No. 34,881
Attorney for Applicants

HARNESS, DICKEY & PIERCE P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303
(248) 641-1600

Dated: March 13, 2000

TTM/trt
Enclosures



Attorney Docket No. 2873-000022/USA

ART UNIT Not yet assigned
 EXAMINER Not yet assigned
 INVENTORS John W. Wong et al.
 SERIAL NO. 09/424,431
 FILED November 23, 1999
 FOR METHOD AND APPARATUS FOR DELIVERING RADIATION THERAPY DURING
 SUSPENDED VENTILATION

RESPONSE TRANSMITTAL AND EXTENSION OF TIME REQUEST

THE COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D. C. 20231

Sir:

FEE CALCULATION FOR ENCLOSED RESPONSE and EXTENSION REQUEST (if any)									
	Claims Remaining		Highest No. Previously Paid		Number Extra		Rate		Additional Fee
Total Claims	20	-	20	=	0	x	\$18.00	=	\$0.00
Independent Claims	3	-	3	=	0	x	\$78.00	=	\$0.00
Surcharge For Multiple Dependent Claim First Added							+\$260.00	=	
<input checked="" type="checkbox"/> Applicant requests a one (1) month extension of time for response to the outstanding Notification. The large entity fee is									\$110.00
TOTAL									\$110.00
<input checked="" type="checkbox"/> SMALL ENTITY STATUS (If applicable, divide TOTAL by 2) <input checked="" type="checkbox"/> Verified Statement enclosed.									\$55.00
<input type="checkbox"/> Reduction for Extension Fee of ____ months already paid									
<input type="checkbox"/> OTHER: _____									
TOTAL									\$55.00

03/24/2000 JMW/TZ1 0000035 09/424,431

☒ A check is enclosed to cover the fees as calculated above.

01 FC:190 40.00 00

☐ The fees calculated above are to be charged to Deposit Account No. 08-0750.

If for some reason applicant has not requested a sufficient extension of time and/or has not paid a sufficient fee for this response and/or for the extension of time necessary to prevent the abandonment of this application, please consider this as a Request for an Extension for the required time period and/or an authorization to charge our Deposit Account No. 08-0750 for any fee which may be due. A duplicate copy of this sheet is enclosed.

03/24/2000 JMW/TZ1 0000035 09/424,431

01 FC:215 55.00 00

HARNESS, DICKEY & PIERCE, P.L.C.

P. O. Box 828
 Bloomfield Hills, Michigan 48303
 (248) 641-1600

By:
 Thomas T. Moga
 Reg. No. 34,881

I hereby certify that this letter, the response attached hereto and, if enclosed, the small entity verification are being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231, on March 13, 2000.

By:

2775-00022 USA JSLO
0244 (m2)
Due 4-00
09/424431



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PC
Washington, D.C. 20231

U.S. APPLICATION NO. 09/424,431 FIRST NAMED APPLICANT WUNG ATTY. DOCKET NO. 207300022USA

INTERNATIONAL APPLICATION NO.
PCT/US98/10389

5071

THOMAS T MOGA
HARNES DICKEY & PIERCE
PO BOX 828
BLOOMFIELD HILLS MI 48303

I.A. FILING DATE 05/22/98 PRIORITY DATE 05/23/97
DATE MAILED: 01/24/00

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494),

☒ an Elected Office (37 CFR 1.495):

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

☐ a non-English language.

☒ English.

☐ Translation of the international application into English.

☒ Oath or Declaration of inventor(s) for DO/EO/US.

☐ Copy of Article 19 amendments.

☐ Translation of Article 19 amendments into English.

☒ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Translation of Annexes to the International Preliminary Examination Report into English.

☐ Preliminary amendment(s) filed _____ and _____.

☐ Information Disclosure Statement(s) filed _____ and _____.

☐ Assignment document.

☐ Power of Attorney and/or Change of Address.

☐ Substitute specification filed _____.

☐ Statement Claiming Small Entity Status.

☐ Priority Document.

☒ Copy of the International Search Report ☐ and copies of the references cited therein.

☐ Other: _____.

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

☐ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

☒ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ _____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☒ PCT/DO/EO/917 ☐ Notice of Defective Translation

☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

Telephone: (703) - 305-3744



09/424431



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/424,431	WONG	J 287300022USA
INTL. APPLICATION NO.		
PCT/US98/10389		
I.A. FILING DATE		PRIORITY DATE
05/22/98		05/23/97
		01/24/00
DATE MAILED:		

THOMAS T MOGA
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5071

NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION

This application fails to contain an oath or declaration acceptable under 35 U.S.C. 371 (c)(4) for entry into the national stage in the United States of America. The period within which to correct these requirements and avoid abandonment is set in the accompanying Office action.

A new oath or declaration, identifying this application by the international application number and international filing date is required. The oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:

1. ☒ is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
2. ☐ does not identify the specification to which it is directed.
3. ☐ does not identify the inventor(s).
4. ☐ does not identify the citizenship of each inventor.
5. ☐ does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

FAILURE TO SUBMIT AN OATH OR DECLARATION IN COMPLIANCE WITH 37 CFR 1.497(a) AND (b) WITHIN THE TIME PERIOD SET WILL RESULT IN FAILURE TO ENTER THE NATIONAL STAGE AND THE ABANDONMENT OF THE APPLICATION.

Additionally, the oath or declaration does not comply with 37 CFR 1.63 in that it:

1. ☐ does not identify the city and state or city and foreign country of residence or each inventor.
2. ☐ does not state that the person making the oath or declaration:
 - a. ☐ has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.
 - b. ☐ acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
3. ☐ does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application serial number, country, day, month, and year of its filing.
4. ☐ does not state that the person making the oath or declaration acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and filing date of the continuation in part application which discloses and claims subject matter in addition to that disclosed in the prior application (37 CFR 1.63(d)).

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